



DIRECTIVE 03-3

August 29, 2003

Date Used for Transfer of Title to Real Property for Sales File Purposes

Purpose. This directive is to advise assessors of the process for determining the date of sale for transfers of real property.

Procedure and Implementation. In most situations, a deed is dated on the date the deed and possession to real property are delivered to the grantee. This date is usually then noted as the date of sale on a Real Estate Transfer Statement (Form 521). However, there are situations when a deed will be predated or postdated because of the nature of the transaction. In these situations, the date on the deed is not the date the legal and equitable title to the real property transferred.

The Nebraska Supreme Court in *Mackiewicz vs. J.J. & Associates*, 245 Neb 568 (1994), has stated that under a land contract, legal title is held by the vendor (grantor) and does not transfer to the purchaser until the contract is satisfied, but equitable ownership is immediately acquired. The vendor is viewed as holding the title in trust for the purchaser. However, the purchaser is viewed as the owner of the property and the date of sale would be the date that possession to the property transferred.

In ascertaining a sale date, the date of sale recorded on the Form 521 shall be presumed to be the date of sale unless credible evidence indicating that possession of the property or the transfer of equitable title to the property was passed on another date. The assessor may consider and determine the credibility of the evidence.

APPROVED

Catherine D. Lang
Property Tax Administrator
August 29, 2003